IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 163 OF 1997.

The Commissioner of Income-tax ... Applicant.

V/s.

M/s Mahindra & Mahindra ... Respondent.

Shri Parag Vyas with Shri Ashok Kotangale and
A.S. Rao for the applicant.

Shri B.V. Jhaveri for the respondent.

CORAM : V.C.DAGA AND J.P. DEVADHAR, JJ.

DATED : 17.10.2005.

P.C. :

. By this reference under section 256(1) of the Income tax Act, 1961, the Income Tax Appellate Tribunal has referred the following substantial question of law for the opinion of this Court:

. "Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in upholding the order of CIT(A) allowing the full contribution to superannuation fund amounting to Rs.10,85,351/- even when 1/5th of 80% of initial contribution was to be allowed in 5 equal instalments.?"

. Learned Counsel for the parties agreed that the above question is already answered by the Division Bench of this Court in the case of **C.I.T. vs. Sirpur Paper Mills reported in (1999) 237 ITR** 41, and in the case of the assessee itself reported in 261 ITR 537 (Bom.) in favour of the assessee and

against the revenue. in favour of the assessee and against the revenue. In this view of the matter, reference is answered in favour the assessee and against the revenue.

. In this view of the matter, question referred is answered in favour of the assessee and against the Revenue.

. Reference stands disposed of with no order as to costs.